IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 13TH DECEMBER 2007 / 22ND AGRAHAYANA 1929

OP.No. 32021 of 2001(K)

PETITIONER:

P.K.DINESH, PUNNACKAL HOUSE,
THURAVOOR.P.O.,
ALLEPPEY DISTRICT.

BY ADV. SRI.K.G.UNNIKRISHNAN NAIR

RESPONDENTS:
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1. VILLAGE OFFICER, KUTHIATHODE.

2. DEPUTY TAHSILDAR (RR), CHERTHALA.

3. WELFARE FUND INSPECTOR,
TODDY WORKERS WELFARE FUND, KOTTAYAM.

4. T.G.RAJU, S/O.GOPALAN,
NADUVILEKUTTU, KUDAVACHOOR.P.O.,
KOTTAYAM DISTRICT.

5. STATE OF KERALA REPRESENTED BY CHIEF SECRETARY,
TRIVANDRUM.

BY ADV. SRI.K.K.BABU
SHRI.A.K.JOHN, SC
GOVERNMENT PLEADER

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 13/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.NO. 32021/2001

ORDER ON CMP NO.52221/2001 IN O.P.NO. 32021/2001.

DISMISSED.

13/12/2007 SD/- (C.N.RAMACHANDRAN NAIR, JUDGE)

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF REVENUE RECOVERY NOTICE DATED 11/09/2001 ISSUED TO THE PETITIONER BY 2ND RESPONDENT.

P2 : COPY OF REVENUE RECOVERY NOTICE DATED 13/07/2001 ISSUED TO 4TH RESPONDENT BY DEPUTY TAHSILDAR (RR) VAIKOM.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

O.P. No. 32021 of 2001

Dated, this the 13th day of December, 2007

J U D G M E N T

Petitioner was admittedly carrying on business in two toddy shops for which toddy workers welfare fund is demanded for the year 1998-99. However, petitioner's case is that the licence was in the name of 4th respondent. This Court, in the decision reported in **Welfare Fund Inspector** Vs. **Jaya**, reported in 2006(3) KLT 988, held that person who carried on business under agreement with licensee is liable to pay contribution because he as an employer is liable to pay contribution along with contributions collected from employees. Learned counsel for the petitioner, however, submits that even if petitioner is liable, petitioner has right of appeal on the quantum of liability fixed. Since adjudication order is not issued in the name of the petitioner, he is disabled from filing appeal, is his case. Since the amount can be recovered from petitioner, petitioner has a right of appeal even if adjudication order is issued in the name of 4th respondent. In the circumstances, this original petition is disposed of leaving freedom to the respondents 1 to 3 to proceed against petitioner and 4th respondent, if payment is not made. Petitioner and 4th respondent are free to collect copy of the

final determination order and file appeal, if there is any dispute in the quantum of contribution fixed. The amount already paid will be adjusted and only the balance should be recovered. If the liability is reduced in appeal, the excess amount collected should be refunded.

(C.N.RAMACHANDRAN NAIR, JUDGE)

jg